

Notice of Allowability

Application No.

10/616,064

Examiner

Roy M. Punnoose

Applicant(s)

JANIK ET AL.

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments filed on 03/28/2006.
2. ☒ The allowed claim(s) is/are 5-20, 24-39, 43-47 and 49-51.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 04/27/2006.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Gregory J. Foster, Jr.
Supervisory Patent Examiner

DETAILED ACTION

Response to Amendment

1. Acknowledgement is made of applicant's amendments and remarks filed on March 28, 2006. The Examiner has accepted the amendments presented by the applicant, except for the new claim, claim 48, details of which are provided below.
2. The applicant has amended claims 5-7, 9, 11-12, 15, 17, 19, 24, 29-32, 36, 38 and 43-47, and added new claims 48-51, of which claim 48 has been cancelled (see examiner's amendment below). Additionally, in the amendments filed on March 28, 2006, the applicant has cancelled claims 1-4, 21-23 and 40-42. Claims 5-20, 24-39, 43-47 and 49-51 are currently pending in the application.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Jeanette S. Harms (Reg. No. 35,537) on April 27, 2006.

Attorney Harms agreed to cancel claim 48 because of the ambiguity created by the recitation "cleaning beam and metrology operation share a common optical path." Upon the examiner's indication of the allowability of the remaining claims, Attorney Harms opted to cancel claim 48 reserving the right to file a continuation if the applicant decided to do so.

The application has been amended as follows:

- a. Claim 48 has been cancelled.

Allowable Subject Matter

4. Claims 5-20, 24-39, 43-47 and 49-51 are allowable.
5. Claims 5, 7, 11, 12, 15, 17, 19, 24, 31, 38, 43 and 47 are allowable because prior art does not disclose a method for analyzing a test sample, the method comprising directing a cleaning beam at the analysis location during the metrology operation to remove contaminant material at the analysis location, in combination with the rest of the limitations of respective claims.
6. Claims 6, 8-10, 13-14, 16, 18, 20, 25-30, 32-37, 39 and 44-46 are allowable because they are dependent on independent claims 5, 7, 11, 12, 15, 17, 19, 24, 31, 38, or 43, and they include all the allowable limitations of the parent claim(s).
7. Claim 49 is allowable because prior art does not disclose a metrology system for analyzing a test sample comprising an analysis subsystem and a cleaning subsystem share a common optical path, in combination with the rest of the limitations claim 49.
8. Claims 50-51 are allowable because they are dependent on independent claim 49, and they include all the allowable limitations of the parent claim(s).
9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contact/Status Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **571-272-2427**. The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gregory J. Toatley, Jr.** can be reached on **571-272-2800 ext.77**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Roy M. Punnoose
Patent Examiner
Art Unit 2877
April 27, 2006




Gregory J. Toatley, Jr.
Supervisory Patent Examiner